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Of Attorneys for Plaintiffs Justin, Tracy and Madison Speer

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PORTLAND DIVISION

<b>JUSTIN SPEER</b> , an individual, <b>TRACY SPEER</b> , an individual, <b>MADISON SPEER</b> , a minor	)	Case No.:
	)	
Plaintiff,	)	<b>COMPLAINT</b>
	)	(Negligence – Personal Injury and Property
v.	)	Damage)
	)	
<b>HOT TRANSPORTATION, INC.</b> , a Illinois corporation; <b>IVAN KOTYK</b> , an individual; and <b>STATUS CARGO TRANSPORTATION, INC.</b> , a Georgia corporation,	)	<b>JURY TRIAL DEMANDED</b>
	)	
Defendants.	)	

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**NATURE OF THE CASE**

1. This is a personal injury action arising out of an automobile accident that occurred on Interstate 5 in Washington County, Oregon. The Court has jurisdiction based on the diversity of the parties and the amount at issue in the suit.

**PARTIES**

2. Plaintiffs are citizens of the State of Oregon.
3. Defendant Hot Transportation, Inc. (“Hot Transport”) is an Illinois corporation with its principal place of business in Illinois.

4. Defendant Ivan Kotyk is a citizen of the State of Washington.

5. Defendant Status Cargo Transportation, Inc. (“Status Cargo”) is a Georgia corporation with its principal place of business in Georgia.

### **JURISDICTION AND VENUE**

6. Diversity jurisdiction exists pursuant to 28 U.S.C. § 1332(a)(1). Plaintiffs are citizens of Oregon. Defendant Hot Transport is a Florida corporation with its principal place of business in Illinois. Defendant Ivan Kotyk is a citizen of Washington. Defendant Status Cargo Transportation is a Georgia corporation with its principal place of business in Georgia. Complete diversity exists between plaintiff and all defendants. As set forth below, the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

7. Venue is proper in this judicial district under 28 U.S.C. § 1391(b)(2), because a substantial part of the events or omissions giving rise to the claim—the automobile accident at issue—occurred in this judicial district.

8. Pursuant to LR 3-2, divisional venue lies in the Portland Division, because the accident at issue occurred in Washington County, Oregon.

### **FACTS**

9. On or about November 16, 2017, plaintiffs’ neighbor, James Allen, was driving plaintiffs to the Portland International Airport, where plaintiffs were scheduled to board a flight to Hawaii. Plaintiffs were riding in Allen’s 2014 Nissan Pathfinder, traveling northbound on Interstate 5 in Washington County, Oregon.

10. On or about November 16, 2017, David Carnley was also traveling northbound on Interstate 5 in a full-size pickup truck, following Allen’s vehicle.

11. On or about November 16, 2017, defendant Kotyk was operating a Volvo semi-truck and trailer northbound on Interstate 5, in the course and scope of his employment for either defendant Hot Transport or defendant Status Cargo Transportation, Inc. Defendant Kotyk’s semi-truck and trailer were following Carnley’s truck.

12. Allen brought his Nissan Pathfinder to a stop in traffic. Defendant Kotyk failed to stop, and his vehicle collided with the back of the pickup truck driven by Carnley. The collision pushed the pickup truck into the rear of Allen's vehicle, causing significant damage to the Pathfinder and injuries to all of its passengers.

13. At all material times herein defendant Kotyk was operating his Volvo semi-truck and trailer in the course and scope of his employment for either Hot Transport or Status Cargo Transportation, Inc.

### **CLAIM FOR RELIEF**

#### **(Negligence - Against All Defendants)**

14. Plaintiff incorporates paragraphs 1 through 12 as if fully realleged herein.

15. The collision described above was caused solely by defendant Kotyk's negligence in one or more of the following particulars:

- (a) In failing to operate his semi-truck at appropriate speed for the circumstances then existing;
- (b) In failing to keep a proper lookout for traffic slowing and stopping ahead of him on the freeway; and/or
- (c) In failing to keep proper control over his Volvo semi-truck, causing it to collide with Carnley's pickup truck and pushing the pickup truck into Allen's vehicle.

16. Defendants Hot Transport and Status Cargo Transportation, Inc. are vicariously liable for defendant Kotyk's negligence, because defendant Kotyk was operating his Volvo semi-truck and trailer in the course and scope of his employment for Hot Transport or Status Cargo Transportation, Inc. at all relevant times.

17. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Tracy Speer suffered physical injuries to her head, neck, shoulder, left knee, upper back, mid back, and low back, tingling in her left hand, concussion, headaches, hematoma, dizziness,

nausea, vomiting, spasm, loss of memory, fatigue, balance problems, sensitivity to light, cognitive deficits, and pain and soreness through her body, and incurred reasonable and necessary expenses for past medical expenses in the amount of \$23,535.12. Plaintiff Tracy Speer also incurred mileage expense traveling to and from medical appointments, and in driving her daughter, plaintiff Madison Speer, to Madison's appointments, in the amount of \$639.74.

18. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Tracy Speer will incur future reasonable and necessary medical expense in an amount of \$25,000. Plaintiffs reserve the right to amend this amount prior to the time of trial.

19. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Tracy Speer suffered physical injuries to her head, neck, shoulder, left knee, upper back, mid back, and low back, and pain and soreness through her body, causing her pain, dizziness, nausea, vomiting, spasm, loss of memory, fatigue, balance problems, sensitivity to light, cognitive deficits, discomfort, inconvenience, and interference with her usual activities on a permanent basis, all to her noneconomic damages in the amount of \$500,000.

20. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Justin Speer suffered physical injuries to his head, low back, mid back, and chest, headaches, and pain and soreness through his body, and incurred reasonable and necessary expenses for past medical expenses in the amount of \$9,794.50. Plaintiff Justin Speer also incurred mileage expense traveling to and from medical appointments in the amount of \$92.80.

21. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Justin Speer suffered physical injuries to his head, low back, mid back, and chest, and pain and soreness through his body, causing him pain, discomfort, inconvenience, and interference with his usual activities on a permanent basis, all to his noneconomic damages in the amount of \$150,000.

22. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Madison Speer suffered physical injuries to her head, shoulders, upper back, and neck,

acute post-traumatic stress disorder, and pain and soreness through her body, and incurred reasonable and necessary expenses for past medical expenses, resistance bands, exercise equipment, and massagers in the amount of \$2,241.00.

23. As a direct and foreseeable result of the collision and defendants' negligence, plaintiff Madison Speer suffered physical injuries to her head, shoulders, upper back, and neck, and pain and soreness through her body, causing her acute post-traumatic stress disorder, pain, discomfort, inconvenience, and interference with her usual activities on a permanent basis, all to her noneconomic damages in the amount of \$50,000.

24. As a direct and foreseeable result of the collision and defendants' negligence, plaintiffs suffered damage to personal property located in Allen's vehicle in the amount of \$834.

#### **DEMAND FOR JURY TRIAL**

25. Plaintiffs demand a jury trial on all claims and issues so triable.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff prays for judgment against defendants as follows:

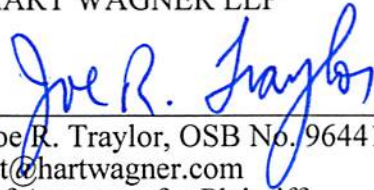
- (a) For plaintiff Tracy Speer, medical expenses in the amount of \$23,535.12;
- (b) For plaintiffs Tracy Speer and Madison Speer, mileage expenses in the amount of \$639.74;
- (c) For plaintiff Tracy Speer, future medical expenses in the amount of \$25,000;
- (d) For plaintiff Tracy Speer, non-economic damages for pain and suffering in the amount of \$500,000;
- (e) For plaintiff Justin Speer, medical expenses in the amount of \$9,794.50;
- (f) For plaintiff Justin Speer, mileage expenses in the amount of \$92.80;
- (g) For plaintiff Justin Speer, non-economic damages for pain and suffering in the amount of \$150,000;
- (h) For plaintiff Madison Speer, medical expenses in the amount of \$2,241.00;

- (i) For plaintiff Madison Speer, non-economic damages for pain and suffering in the amount of \$50,000;
- (d) Economic damages for property damage in the amount of \$834.00; and
- (f) Such further relief as the Court deems appropriate.

Respectfully submitted this 15<sup>th</sup> day of November, 2019.

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By: \_\_\_\_\_

  
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